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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,033	02/25/2000	Donald L. Brodigan	1589 (USW0563PUS)	7568

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EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/514,033	Applicant(s) BRODIGAN ET AL.	
	Examiner Annan Q. Shang	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-11 have been considered and based on an appeal conference held on 02/01/06, applicant's arguments were convincing. A new ground(s) of rejection is hereby being issued as discussed below. This office action is non-final.

Claim Rejections - 35 USC § 112

2. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1 and 5, the claimed 'establishing an impulse pay-per-view communication path...' should be clarified. It appears the IPPV path can be established in two ways, i.e., the IPPV communication path between the STB, the BDT and the SP and also between the STB and the SP.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by **Pinder et al (5,742,677)**.

As to claim 1, note the **Pinder** reference figure 1, disclose a method for providing personalized interactive programming over a data path, the data path extending between a service provider and a set top box (Terminal Unit or Home Communications Terminal 'TU' 16), the service provider being connected to a data network and having an address, the method comprising:

establishing a communication path (figs.1 and 2A-D, col.4, lines 25-66, col.5, lines 5-44, line 59-col.6, line 26) between a broadband digital terminal (Information Distribution Center 'IDC' 12 or Head-end 125 "a local distributor, col.5, line 59-col.6, line 26) and the set top box, the broadband digital terminal (IDC-12) being connected to a data network (Internet, WAN, public or private, switched or non-switched interactive data network, such as ATM, col.9, line 66-col.10, line 35) and the service provider (SP-14-1 to 14-n) broadcasting video through the broadband digital terminal to the set top box (col.4, lines 25-42), note that to initial transaction the SP broadcasts Messages (private key, address, logo and graphics data and the like), col.4, line 43-col.5, line 29) which enables the SP to communicate directly to TU-16 via addressed communications;

sending a private data packet (Messages) in addition to the broadcast video from the SP, over the network (WAN or Internet) and through the broadband digital terminal to the set top box (TU-16), the packet containing application interface information (address, logo and graphics data and the like) for the service provider and containing the service provider address (col.4, line 43-col.5, line 29) and

establishing an impulse pay-per-view communication path (col.5, lines 5-36, line 46-col.6, line 32, col.9, lines 5-46 and line 66-col.10, line 35) between the set top box and the service provider based upon the address to allow interactive programming using the application interface information between the service provider and the set top box to personalize the broadcast programming (col.4, line 43-col.5, line 36 and col.9, line 66-col.10, line 35), note that a virtual channel or path is established between the SP and TU or HCT-16 using the ATM network.

As to claim 2, Pinder further discloses where sending private data packet, is performed by inserting the private data packet between frames of a video transmission (col.7, lines 11-55).

As to claim 3, Pinder further discloses where the video transmission is prerecorded programming that is transmitted on demand (col.5, lines 37-col.6, line 26 and col.9, lines 3-46).

As to claim 4, Pinder further discloses where the video transmission is real-time programming (col.9, lines 3-46).

As to claims 5-6, the claimed "An interactive video/data system for interacting with destination address of a network..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

As to claims 7-8, Pinder further discloses where the interactive video/data system comprises an optical network interface between IDC-12 and TU or HCT-16 (col.9, line 66-col.10, line 35) and further discloses a network interface device, such as a modem, between IDC-12 and TU or HCT-16 (col.9, lines 5-46).

Claim 9 is met as previously discussed with respect to claim 2.

As to claims 10-11 is met as previously discussed with respect to claim 1.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eyer (2001/0049720) discloses standard method of access to multimedia provider portal.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

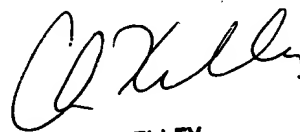
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**.



Annan Q. Shang



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